

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

ISREAL DONLEY,	:	
	:	
Petitioner,	:	Case No. 3:21-cv-101
	:	
v.	:	Judge Thomas M. Rose
	:	
WARDEN,	:	Magistrate Judge Michael R. Merz
Trumbull Correctional Institution,	:	
	:	
Respondent.	:	

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**ENTRY AND ORDER OVERRULING OBJECTION TO REPORT AND  
RECOMMENDATION (DOC. NO. 20) AND OBJECTION TO  
SUPPLEMENTAL REPORT AND RECOMMENDATION (DOC. NO. 25);  
ACCEPTING AND ADOPTING REPORT AND RECOMMENDATIONS (DOC.  
NO. 17) AND SUPPLEMENTAL REPORT AND RECOMMENDATIONS (DOC.  
NO. 22); DISMISSING WITH PREJUDICE THE PETITION FOR WRIT OF  
HABEAS CORPUS (DOC. NO. 1); AND, TERMINATING THE CASE**

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This 28 U.S.C. § 2254 habeas corpus action is before the Court on the Objections (Doc. No. 20 and Doc. No. 25) filed by Petitioner Isreal Donley (“Petitioner”) to the Report and Recommendations (Doc. No. 17) (“Report”) and Supplemental Report and Recommendations (Doc. No. 22) (“Supplemental Report”). On March 8, 2021, Petitioner filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 (Doc. No. 1) (the “Petition”), which contains four grounds for relief. After the action was transferred to this Court from the Northern District of Ohio (*see* Doc. No. 4 and Doc. No. 5), the attorney for Respondent filed the State Court Record (Doc. No. 11) and Respondent’s Return of Writ (Doc. No. 12), and Petitioner filed the Traverse of Petitioner (Doc. No. 16). Magistrate Judge Michael R. Merz then issued the Report for decision on the merits, to which Petitioner filed objections. (Doc. No. 17; Doc. No. 20.) After the undersigned

issued a recommittal order, Judge Merz issued the Supplemental Report, to which Petitioner filed objections. (Doc. No. 21; Doc. No. 22; Doc. No. 25.) The time for the Respondent to file a response to Petitioner's objections has expired. This matter is ripe for the Court's review.

The Report and the Supplemental Report concluded that the Petitioner's first ground for relief was procedurally defaulted; Petitioner's second ground for relief was procedurally defaulted; Petitioner's third ground for relief is moot and should be dismissed; and Petitioner's fourth ground for relief does not entitle Petitioner to relief because federal habeas corpus is available only to correct federal constitutional violations, not violations of state law, and should be dismissed. (Doc. No. 17; Doc. No. 22.) Accordingly, Judge Merz recommended that this Court dismiss the Petition with prejudice. (*Id.*) He also recommended that this Court deny Petitioner a certificate of appealability because reasonable jurists would not disagree with the conclusion to dismiss the Petition with prejudice and that this Court certify to the Sixth Circuit Court of Appeals that any appeal would be objectively frivolous and should not be permitted to proceed *in forma pauperis*. (*Id.*)

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has made a *de novo* review of the record in this case. Upon said review, the Court finds that Petitioner's objections to the Report (Doc. No. 20) and Petitioner's objections to the Supplemental Report (Doc. No. 25) are not well-taken and they are hereby **OVERRULED**. The Court **ACCEPTS** the Report (Doc. No. 17) and the Supplemental Report (Doc. No. 22), **ADOPTS** them in their entirety, and rules as follows:

1. The Petition (Doc. No. 1) is **DISMISSED WITH PREJUDICE**;
2. As reasonable jurists would not disagree with this conclusion, Petitioner is **DENIED** a certificate of appealability;

3. The Court **CERTIFIES** to the Sixth Circuit that any appeal would be objectively frivolous and therefore should not be permitted to proceed *in forma pauperis*;
4. The Clerk is directed to **NOTIFY** the petitioner; and
5. The Clerk is ordered to **TERMINATE** this case on the docket of this Court.

**DONE** and **ORDERED** in Dayton, Ohio, this Wednesday, March 23, 2022.

s/Thomas M. Rose

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE